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SIPDIS

SENSITIVE

EB/TPP/MTA/IPC FOR S. WILSON  
PASS TO USTR FOR E. SAUMS

E.O. 12958: N/A

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SUBJECT: JORDAN COPYRIGHT LAW: WIPO COMPLIANCE A FOUNDATION  
FOR CLOSER CONFORMITY WITH FTA

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1. (U) This is an action request. See last para.

2. (SBU) SUMMARY: Ministry of Industry and Trade contacts confirmed that the Government of Jordan (GOJ) cabinet has approved two WIPO internet treaties and expects the notification process to WIPO to be completed by the end of the year. Amendments intended to bring Jordan's Copyright Law into conformity with the two treaties are before the Parliament, which should take action before the end of January. The Deputy Prime Minister and Minister of Trade Mohammad Halaiga has asked for a review of the law and the FTA, to decide on other possible amendments to the copyright law needed to bring the law into closer conformity with the U.S.-Jordan Free Trade Agreement (FTA). Ministry of Trade officials asserted their intent to meet Jordan's commitments under the FTA. END SUMMARY.

WIPO Treaties on Track

3. (SBU) Ministry of Industry and Trade Assistant Director of Foreign Trade Policy Maha Ali told Econoff December 8 that the GOJ cabinet approved the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), known as the internet treaties, before the Eid Al-Fitr holiday in late November. The treaties are in the Royal Court awaiting King Abdullah's approval, she noted. Although she stressed that she could not speak for the Royal Court, Ali said that the treaties would likely be given consideration very soon. She confirmed that, if approved, the two treaties would be notified to WIPO by the end of the year. At the same time the treaties would also go to Parliament for ratification before being sent to the MFA for final processing and deposit of the instruments of ratification. A number of officials acknowledged that the FTA specifies that date for accession and deposit of the WCT and WPPT on December 17, but noted that the new elections, the formation of a government and a cabinet reshuffle had delayed the progress of the measure. At the same time, senior MOIT official Amer Hadidi said that the internet treaties and the Copyright Law would be taken up by the government as a priority.

4. (SBU) Regarding the amended Copyright Law, which has been in effect as a provisional law since June 16, 2003, National Library Director Mamoun Talhouni noted that it included improvements developed through a careful review of the 1999 law by an expert provided by WIPO headquarters in Geneva. (NOTE: Provisional laws adopted by the Cabinet in the period between the old parliament's dissolution and the new parliament's election last June 17 remain in effect until adopted, rejected, or amended. END NOTE.) Talhouni asserted that the law appeared to meet the minimal standards set out in the WCT and the WPPT and, in certain instances, the additional amendments seemed to be stronger than those standards. The WIPO-supported review had been completed in May, 2002, he noted. It took about a year for the amended Copyright Law to work its way through the government before being passed as a temporary law.

WIPO Amendments Look Good, But Not A Shoe-In

5. (SBU) In order to become the law of the land with Parliament's full blessing, the amended Copyright Law still has to pass through a parliamentary review that Talhouni deemed "sensitive." Talhouni vaguely alluded to private sector concerns from interest groups that have benefited from loose enforcement of copyright. According to a respected IPR lawyer in Amman, Nancy Dababneh of International Business Legal Associates, (protect source) one serious concern is the simple "presumption of authorship" concept. A lack of education among the general public and lawmakers has led many, for example, to question that the creation of works during employment that relate to a business's activities should be the property of the employer, she said. The WIPO-conforming amendments will likely be considered before

the end of January, Talhouni said, expressing the hope that they would pass.

#### FTA Commitments

16. (SBU) Turning to the GOJ's commitments in the FTA, Talhouni noted that accession to the internet treaties and corresponding amendments to the Copyright Law were a major achievement. "I thought we did what we had to do," to conform to the FTA, he said, noting that he relied on the WIPO-supported expert. He termed certain amendments of the law "strong", such as a new article banning circumvention measures that disable IPR protections (Article 55 of the Copyright Law). Noting that it was not an official USG position, Econoff cited a recent private review of the GOJ Copyright Law with a Jordanian IPR lawyer (Dababneh - protect), in which about ten parts of the law appeared to the Jordanian lawyer to be imprecise or incomplete when compared to the FTA requirements. (NOTE: We shared with Dababneh many of the main points of a recent IIPA analysis of the Copyright Law, without identifying the source. END NOTE.) Talhouni asserted that the matter required further review by experts. If provisions of the Copyright Law are not adequate to meet FTA obligations as agreed between the two governments, he said, then he would seek GOJ cooperation to reach those objectives agreed to by both parties. MOIT's Hadidi was more direct, asserting that the GOJ would seek ways to meet all of its FTA commitments regarding IPR, including copyright. (COMMENT: The National Library formerly reported to the Minister of Culture, which has been abolished. The NL must now answer to the MOIT, and will likely adopt a more aggressive approach to solving trade-related problems. END COMMENT.)

17. (SBU) Regarding enforcement, Talhouni noted that the National Library brought 308 IPR infringement cases in 2003 through November 24, breaking the 2002 record of 297 cases. Most of these cases were for selling pirated works, he noted. Working with police, the National Library enforcement units have been able to use a wide variety of criminal law measures to seek out illegal producers and vendors and to confiscate evidence such as pirated DVDs. This aggressive enforcement activity has raised the ire of local populist journalists, who print articles slanted against the enforcers, Dababneh noted. In addition, the National Library is running out of space to store the evidence, Talhouni has noted.

#### Legislative Timing an Issue

18. (SBU) For now, the National Library would try to bring the current set of amendments to conclusion in Parliament, Talhouni noted. In the meantime, in parallel with the efforts there, the National Library would recommend to its parent Ministry of Industry and Trade to review the Copyright Law and develop any amendments needed to bring it into closer conformity with the FTA. Talhouni was confident that, given the proper technical inputs, a National Library-Trade Ministry team could pull together any required amendments to support the FTA IPR obligations and to propose them to the cabinet. Hadidi emphasized that the review would happen quickly and that the ministry would propose a timetable for the potential amendments as soon as possible. Hadidi also asked to know what the U.S. government's priorities were regarding copyright matters.

#### Jordan Appears Committed to Taking Next Steps

19. (SBU) COMMENT: Dababneh's review of the Copyright Law and the FTA shows that of roughly ten problem areas identified by IIPA, perhaps about five would need to be handled in amendments to the law and the rest through amendments to GOJ regulations or through other measures such as the application of other laws already on the books or through clarifications about meaning or intent in the law.

110. (SBU) We are reassured by the commitments made by Talhouni and Hadidi. On the plus side, a growing core of businesses that benefit from strong IPR protections -- the IT industry, pharmaceuticals, legitimate DVD rental stores -- are pulling together to promote IPR and would be useful allies to secure any needed changes to the Copyright Law.

111. (SBU) All indications are that the GOJ is committed to taking the steps necessary to live up to its IPR commitments in the FTA.

112. (SBU) Nonetheless, we see a need to respond to the GOJ's request to outline specific USG concerns regarding the Copyright Law and, in particular, our priorities. For example, the GOJ just doubled the penalties for infringement. What importance does the U.S. attach to increasing the penalties again, versus securing fundamentals such as a better definition of "presumed authorship"? END COMMENT.

113. (SBU) ACTION REQUEST: Embassy seeks Department's guidance on the USG approach to Jordan's amended Copyright Law, our views on a review of the law for consistency with FTA obligations, and the priorities the USG attaches to the various IPR legal and enforcement issues raised. In addition to addressing this issue with the National Library's Talhouni, who has technical responsibility for enforcing copyright protections, we will use this guidance with Deputy Prime Minister and Minister of Industry and Trade Halaiga, who has overall responsibility for managing Jordan's trade relationship with the United States. The subject should also be on the agenda of the upcoming U.S.-Jordan FTA Joint Committee meeting.

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